

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARY D.,

Plaintiff(s),

v.

MARTIN O'MALLEY,

Defendant(s).

Case No. 2:24-cv-00237-NJK

Order

[Docket No. 1]

Plaintiff requests authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis* (Docket No. 1), and has submitted a complaint (Docket No. 1-1).

I. Application to Proceed *In Forma Pauperis*

Plaintiff filed an application to proceed *in forma pauperis*. Docket No. 1. The application has sufficiently shown an inability to prepay fees and costs or give security for them. Accordingly, the application to proceed *in forma pauperis* will be granted pursuant to § 1915.

II. Screening the Complaint

When a party seeks permission to pursue a civil case *in forma pauperis*, courts will screen the complaint. *See* 28 U.S.C. § 1915(e). A central function of this screening process is to “discourage the filing of, and waste of judicial and private resources upon, baseless lawsuits that paying litigants generally do not initiate because of the cost of bringing suit.” *Neitzke v. Williams*, 490 U.S. 319, 327 (1989).

With respect to social security appeals specifically, judges in this District have outlined some basic requirements for complaints to satisfy the Court’s screening. First, the complaint must establish that administrative remedies were exhausted pursuant to 42 U.S.C. § 405(g), and that the civil action was commenced within 60 days after notice of a final decision. Second, the complaint must indicate the judicial district in which the plaintiff resides. Third, the complaint must state the

1 nature of the plaintiff's disability and when the plaintiff claims to have become disabled. Fourth,
 2 the complaint must identify the nature of the plaintiff's disagreement with the determination made
 3 by the Social Security Administration and show that the plaintiff is entitled to relief. *See, e.g.,*
 4 *Graves v. Colvin*, 2015 WL 357121, *2 (D. Nev. Jan. 26, 2015) (collecting cases).¹

5 The Court has reviewed the complaint and finds it sufficient to survive screening.

6 **III. Conclusion**

7 Accordingly, the Court hereby **ORDERS** as follows:

- 8 1. Plaintiff's request to proceed *in forma pauperis* is **GRANTED** with the caveat that the
 9 fees must be paid if recovery is made. At this time, Plaintiff is not required to pre-pay
 10 the filing fee.
- 11 2. Plaintiff is permitted to maintain this action to conclusion without the necessity of
 12 prepayment of any additional fees or costs or the giving of a security therefor. The
 13 Order granting leave to proceed *in forma pauperis* shall not extend to the issuance of
 14 subpoenas at government expense.
- 15 3. The Clerk of Court must file the Complaint.
- 16 4. The Clerk must provide notice of this action to the Commissioner pursuant to Rule 3
 17 of the Supplemental Rules for Social Security.
- 18 5. From this point forward, Plaintiff must serve upon Defendant or, if appearance has been
 19 entered by counsel, upon the attorney, a copy of every pleading, motion or other
 20 document submitted for consideration by the court. Plaintiff must include with the
 21 original paper submitted for filing a certificate stating the date that a true and correct
 22 copy of the document was personally served or sent by mail to the defendants or
 23 counsel for the defendants. The Court may disregard any paper received by a district
 24 judge or magistrate judge which has not been filed with the Clerk, and any paper
 25

26 ¹ New rules govern social security cases, which provide in pertinent part that the plaintiff
 27 "may" provide a short and plain statement of the grounds for relief. Supp. R. Soc. Sec. 2(b)(2).
 28 In the context of an *in forma pauperis* screening, however, a social security plaintiff must still
 provide a sufficient explanation as to her contentions on appeal. *Jalal H. v. Comm'r of Soc. Sec.*,
 2023 WL 35218, at *2 (S.D. Cal. Jan. 4, 2023).

1 received by a district judge, magistrate judge or the Clerk which fails to include a
2 certificate of service.

3 IT IS SO ORDERED.

4 Dated: February 8, 2024

5
6 
Nancy J. Koppe
United States Magistrate Judge